

Attorney Docket: 030212  
U.S. Application 10/722,921 Art Unit 2614 Examiner Tieu  
Response to June 2, 2008 Final Office Action

### **REMARKS**

In response to the final Office Action dated June 2, 2008, the Assignee respectfully requests reconsideration based on the following remarks. The Assignee respectfully submits that *Rosenthal* may not be cited against the pending claims. This application was filed November 26, 2003, and *Rosenthal* has an effective filing date of February 3, 2004. *Rosenthal*, then, is not a proper § 102 (a), (b), or (e) document. The pending claims, then, cannot be anticipated or obviated using *Rosenthal*. The Assignee thus respectfully requests removal of the final rejections of the pending claims.

Claims 1-20 are pending in this application.

#### **Rejections under § 102 (e)**

The Office rejected claims 1-2 and 8-12 under 35 U.S.C. § 102 (e) as allegedly being anticipated by U.S. Patent 7,177,404 to *Rosenthal*. *Rosenthal*, however, has an effective filing date after the pending claims. That is, this application has a filing date of November 26, 2003, and *Rosenthal* has an effective filing date of February 3, 2004. *Rosenthal*, then, is not a proper § 102 (e) document. Claims 1-2 and 8-12, then, cannot be anticipated by *Rosenthal*. The Assignee thus respectfully requests removal of the final rejection of these claims.

#### **Rejection of Claims under § 103 (a)**

Claims 3-7 and 13-20 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Rosenthal* in view of U.S. Patent 6,556,997 to Levy. Again, though, the proposed combination of *Rosenthal* with *Levy* cannot obviate claims 3-7 and 13-20. Because *Rosenthal* fails as a § 102 (e) document, *Rosenthal* cannot be used to reject claims 3-7 and 13-20 under § 103 (a). The Assignee thus respectfully requests removal of the final rejection of these claims.

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If any issues remain outstanding, the Office is requested to contact the undersigned at  
(919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott P. Zimmerman', with a stylized flourish at the end.

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